

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SEGUNDO SERAFIN AUCACAMA TAMAY,
CARLOS PERALTA, and EDUARDO TAPIA,

Plaintiffs,

-against-

CHEZ JACQUELINE REST. INC. d/b/a CHEZ
JACQUELINE, SYSTEM D RESTAURANT
HOLDINGS INC. d/b/a CHEZ JACQUELINE,
FRANK GIRALDI, PHILIP KEMPISTY, and
IVICA PERUNOVIC,

Defendants.
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17-CV-1470 (VEC)

ORDER

VALERIE CAPRONI, United States District Judge:

WHEREAS Plaintiffs have moved to dismiss Defendant Perunovic's counterclaims
(*see* Dkt. 93); and

WHEREAS trial is scheduled to begin in this case on October 9, 2018, with a final
pretrial conference scheduled October 4, 2018; and

WHEREAS on September 28, 2018, the parties appeared for a conference with this
Court;

IT IS HEREBY ORDERED THAT:

1. For the reasons stated on the record on September 28, 2018, Plaintiffs' motion to
dismiss Perunovic's counterclaims is GRANTED WITH LEAVE TO AMEND. Perunovic's
counterclaim for deceptive sales practices is DISMISSED with prejudice and without leave to
amend. Perunovic's counterclaim for unlawful tip deductions is DISMISSED with leave to
amend, solely to add allegations against Plaintiff Carlos Peralta; this counterclaim is dismissed
with prejudice and without leave to amend as to Plaintiffs Segundo Serafin Aucacama Tamay
and Eduardo Tapia. Perunovic's amended counterclaim must be filed no later than **October 5**,

2018. Plaintiff's answer to the Amended Counterclaim must be filed no later than **October 26, 2018.**

2. Fact discovery is reopened solely to allow for the deposition of Boyan Petkivov. The deposition must be completed no later than **November 16, 2018.**


3. Defendant Kempisty's application to amend the joint pretrial order, joint requests to charge, and joint proposed voir dire questions, and his application to file a pretrial memorandum of law, are GRANTED. All such materials must be filed no later than **December 7, 2018.** These materials must comply with this Court's Individual Practices in Civil Cases.

4. The October 9 trial is ADJOURNED to **January 14, 2019 at 10:00 a.m.** in Courtroom 443 of the Thurgood Marshall U.S. Courthouse. The October 4 final pretrial conference is ADJOURNED to **January 8, 2019 at 2:00 p.m.** in Courtroom 443.

5. The Clerk is respectfully directed to close the open motions at Dkts. 93 and 111.

SO ORDERED.

Date: October 1, 2018
New York, New York



VALERIE CAPRONI
United States District Judge